

DEPARTMENT OF HEALTH
NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 40 of Title 17 of the District of Columbia Municipal Regulations (DCMR). The Director took final rulemaking action on August 14, 2007.

The purpose of this rulemaking is to clarify that individuals holding licenses, registrations, or certifications to practice a health occupation in the District of Columbia are required to practice under the same name in which their license was issued. This requirement is necessary in order to avoid causing confusion to the public concerning who is authorized to practice in the District, to aid the public in correctly identifying practitioners when submitting complaints to the Health Occupations Boards, and to aid the Boards in investigating complaints. A notice of Proposed Rulemaking was published in the *D.C. Register* on June 22, 2007 at 54 DCR 006070. No comments were received; no changes have been made. These final rules will be effective upon publication of this notice in the *D.C. Register*.

17 DCMR Chapter 40, HEALTH OCCUPATIONS: GENERAL RULES is amended as follows:

A new section 4016 is added to read as follows:

4016 DISPLAY AND USE OF NAME IN PROFESSIONAL PRACTICE

- 4016.1 An individual holding a license, registration, or certification to practice a health occupation in the District of Columbia shall perform all professional practice in the District under the full name in which his or her license was issued. This shall mean displaying the full name in which his or her license was issued on all signage, stationary, and advertisements; and using this name in all oral and written communications with the public or his or her patients.

DISTRICT OF COLUMBIA HOUSING AUTHORITY**NOTICE OF FINAL RULEMAKING**

The Board of Commissioners of the District of Columbia Housing Authority hereby gives notice of the adoption of Chapter 81 to Title 14, Rental Subsidy Programs: Housing Quality Standards and Inspections. This new chapter permits DCHA to postpone implementation of abatement of periodic payments to landlords under Housing Assistance Payment Contracts due to participant action preventing access or impeding repair. Final action to adopt these rules was taken at the Board of Commissioners regular meeting on July 11, 2007. Notice of Proposed Rulemaking was published on May 18, 2007 (54 DCR 5026). Minor, but not substantial, changes were made to the text of the proposed rules as published under the notice of proposed rulemaking. These final rules will be effective upon publication of this notice in the D.C. Register.

**CHAPTER 81 RENTAL SUBSIDY PROGRAMS: HOUSING QUALITY
STANDARDS AND INSPECTIONS****8100 HOUSING QUALITY STANDARDS**

- 8100.1 Housing Quality Standards (HQS) are the minimum quality standards set by the U.S. Department of Housing and Urban Development (HUD) for the Housing Choice Voucher Program. The District of Columbia Housing Authority (DCHA) will enforce the more stringent of HQS or the District of Columbia regulations unless the enforcement of those requirements restricts the availability of suitable housing for rent subsidy families.
- 8100.2 A unit must meet HQS both at initial occupancy of the unit and throughout the term of the lease. HQS applies to the building and premises, as well as the unit. Newly leased units must pass an HQS inspection before the beginning date of the Housing Assistance Payments (HAP) Contract.
- 8100.3 The following HQS deficiencies are considered the responsibility of the participant:
- (a) Participant-paid utilities not in service;
 - (b) Failure to provide or maintain participant-supplied appliances; and
 - (c) Damage to the unit or premises caused by a member of the participant's family or guest beyond normal wear and tear.
- 8100.4 Except for the HQS deficiencies listed in Subsection 8100.3, all other HQS deficiencies are the responsibility of the owner.

- 8100.5 DCHA must be permitted access to the unit for HQS inspections at reasonable times with reasonable notice, or minimal or even no notice if the HQS inspection is in connection with an emergency.
- 8100.6 DCHA will postpone abatement of payments to an owner under a HAP Contract, for up to ninety (90) Days, if the following conditions exist:
- (a) The unit failed the first HQS inspection due entirely or in part to owner's violations or DCHA was denied access to the unit;
 - (b) The second HQS inspection was prevented due to action by the participant. For example, the participant installed or changed the locks without providing the owner with keys or the participant prevented the owner from making repairs which were the owner's responsibility, causing the unit to fail the second HQS inspection;
 - (c) If, within fourteen (14) Days of the second HQS inspection, the owner makes a written request to DCHA for a postponement of the HAP abatement and provides written evidence of the owner's efforts to enforce their lease and obtain access to the unit. For example: initiation of a legal action or notice to the participant to cure the lease violation or vacate; and
 - (d) The repairs at issue are not repairs found in the Code of Federal Regulations at 24 C.F.R. § 982.401, which must be corrected within twenty-four (24) hours.
- 8100.7 The postponement of the abatement payments will be triggered by receipt by DCHA of a written request as described in Subsection 8100.6(c).
- (a) Owner must make a diligent effort to gain access to the unit to effect any repairs and allow for a third HQS inspection;
 - (b) Owner must notify DCHA when access can be obtained for the second HQS inspection and DCHA will inspect on a mutually agreed upon date at least fifteen (15) Days but not more than thirty (30) Days after receiving notice from the owner that the unit can be accessed;
 - (c) If upon the third HQS inspection the unit fails HQS due to owner's failure to properly make repairs, then the abatement of payment under the HAP contract will be made retroactively as of the date of the first HQS inspection; and
 - (d) If upon the third HQS inspection the unit passes, the owner's payment under the HAP Contract will be abated for the period beyond the ninety (90) Day postponement period up until the date of the passed third HQS inspection. There will be no abatement of payments under the HAP

Contract if the successful third HQS inspection is within the ninety (90) day period.

DEPARTMENT OF HEALTH

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Chapter 49 (Physician Assistants) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended as follows:

The Table of Contents is amended to read as follows:

- 4900 General Provisions
- 4901 Term of License
- 4902 Educational Requirements
- 4903 Examination
- 4904 [Reserved]
- 4905 [Reserved]
- 4906 Continuing Education Requirements
- 4907 Approved Continuing Education Programs and Activities
- 4908-4910 [Reserved]
- 4911 Scope of Practice
- 4912 Prescribing and Dispensing Drugs
- 4913 [Reserved]
- 4914 Supervision
- 4915 Delegation Agreement
- 4916 Supervising Physician
- 4917 Duties of Advisory Committee on Physician Assistants
- 4918 Title Protection
- 4919 Disaster and Emergency Care
- 4999 Definitions

Section 4901 is amended to read as follows:

4901 TERM OF LICENSE

4901.1 Subject to § 4901.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of December 31 of each even-numbered year.

4901.2 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birth date of the holder of the license, or other date established by the Director.

4901.3 A temporary license may be issued to an applicant who meets all qualifications for licensure, while awaiting the next scheduled meeting of the board and is subject to the criteria as follows:

(a) The physician assistant has no pending disciplinary or criminal charges in any jurisdiction relating to the physician assistant's fitness to practice; and

(b) The supervising physician(s) is (are) licensed in good standing in the District of Columbia with no pending disciplinary or criminal charges in any jurisdiction relating to the physician's (physicians') fitness to practice.

4901.4 The time period for such temporary license shall not exceed six (6) months, at the end of which time the physician assistant must have obtained full licensure or must withdraw the request and immediately cease to perform the health care tasks specific to physician assistant practice.

Section 4903.1 is amended to read as follows:

4903.1 An applicant shall receive a passing score on the Physician Assistant National Certifying Examination (PANCE), an examination administered by the National Commission on Certification of Physician Assistants (the NCCPA examination).

Section 4904 is deleted in its entirety and marked as reserved.

Section 4907.2 is amended to read as follows:

4907.2 The Board may approve continuing medical education programs and activities for Category 1 credit that are as follows:

(a) Sponsored, co-sponsored, or accredited by:

(1) The American Academy of Physician Assistants (AAPA);

- (2) The Accreditation Council for Continuing Medical Education (ACCME);
- (3) The American Osteopathic Council on Continuing Medical Education (AOACCME);
- (4) The American Academy of Family Physicians (AAFP); or
- (5) A state medical society; and

(b) Designated:

- (1) Category 1 by the AAPA;
- (2) American Medical Association Physician's Recognition Award (AMA/PRA) Category 1 by the ACCME;
- (3) Category 1 by the AOACCME; or
- (4) Prescribed credit by the AAFP.

Section 4907.3 is amended to read as follows:

4907.3 A physician assistant may show proof of meeting the above continuing medical education requirements by providing evidence of current certification by the National Commission on Certification of Physician Assistants.

Section 4907.4 is amended to read as follows:

4907.4 The Board may approve continuing education programs and activities for Category 2 credit that are as follows:

(a) Limited in content to the following:

- (1) Public health administration;
- (2) The basic medical sciences; or
- (3) The discipline of clinical medicine; and

(b) Comprised of one of the following activities:

- (1) Grand rounds;

- (2) Teaching rounds;
- (3) Seminars;
- (4) Lectures;
- (5) Conferences;
- (6) Medical teaching;
- (7) Patient care review;
- (8) Publication or presentation of an article related to practice as a physician assistant;
- (9) Workshops;
- (10) Courses of instruction, including self-instruction;
- (11) Reading literature published primarily for readership by health care practitioners;
- (12) Teaching health professionals, as long as such teaching is not a major professional responsibility of a physician assistant; or
- (13) Written and practical examination, including self-assessment.

A new section 4907.5 is added to read as follows:

- 4907.5 An applicant shall have the burden of verifying whether a program or activity is approved by the Board pursuant to this section prior to attending the program or engaging in the activity.

Section 4911 is deleted in its entirety and amended to read as follows:

4911 SCOPE OF PRACTICE

- 4911.1 A physician assistant may, in accordance with this chapter and the Act, perform health care tasks that are consistent with sound medical practice, when delegated by their supervising physician(s) and the service is within the physician assistant's skills, forms a component of the physician's scope of practice, and the physician assistant is provided supervision.
- 4911.2 A written delegation agreement that lists delegated functions, practice sites, and supervisors must be signed by the supervising physician(s) and the physician assistant.

- 4911.3 Physician assistants may authenticate with their signature any form that may be authenticated by a supervising physician's signature so long as the form is within the scope of practice as set forth in the delegation agreement.
- 4911.4 Physician assistants shall be considered the agents of their supervising physician(s) in the performance of all practice-related activities including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.
- 4911.5 Each time a physician assistant provides care for a patient and enters his or her name, signature, initials, or computer code on a patient's record, chart, or written order, the physician assistant shall also enter the name of the supervising physician responsible for the patient.
- 4911.6 When a physician assistant transmits an oral order, he or she shall also state the name of the supervising physician responsible for the patient.
- 4911.7 A physician assistant may perform health care tasks and medically related services at any location where the supervising physician(s) can provide appropriate oversight and/or review of the physician assistant's actions related to the provision of such services.
- 4911.8 Physician assistants licensed in the District shall keep their license available for inspection at their primary place of business and shall, when engaged in their professional activities, identify themselves as physician assistants by introduction and by identification badge with clearly visible lettering with their name and title "Physician Assistant" or "PA-C".
- 4911.9 A physician assistant may give medical orders to health professionals, consistent with the policies of a hospital or health care facility where the orders are to be executed.

Section 4912 is deleted in its entirety and amended to read as follows:

4912 PRESCRIBING DRUGS AND DISPENSING DRUGS

- 4912.1 All physician assistants may perform those duties and responsibilities, including the ordering, prescribing, dispensing, and administration of drugs and medical devices that are delegated by their supervising physician(s). Each prescription must bear the name of the supervising physician and physician assistant.

- 4912.2 All written prescriptions issued by a physician assistant shall be written on a prescription pad that bears the printed names of the physician assistant and the supervising physician. The physician assistant must include the federal Drug Enforcement Agency (DEA) registration number on prescriptions for controlled medications.
- 4912.3 Electronic prescription orders must comply with the provisions of Title 22 DCMR, § 1304.
- 4912.4 Physician assistants may request, receive, and sign for professional samples and may dispense professional samples to patients as delegated by a supervising physician and as otherwise consistent with §§ 4912.1 and 4912.6.
- 4912.5 As delegated to do so by a supervising physician, physician assistants may order, prescribe, and dispense legend drugs and controlled substances enumerated in schedules II through V in D.C. Official Code § 48-902.01 *et seq.* Physician assistants authorized to prescribe and/or dispense controlled substances must register with the DEA.
- 4912.6 Professional samples of drugs dispensed pursuant to § 4912.4 shall be labeled to show the following:
- (a) The name and strength of the drug;
 - (b) The lot and control number; and
 - (c) The expiration date of the drug.
- 4912.7 All drugs dispensed by a physician assistant, except professional samples, shall be labeled to show the following:
- (a) The name and address of the providing institution;
 - (b) The name of the supervising physician and physician assistant;
 - (c) The name of the patient;
 - (d) The date dispensed;
 - (e) The name and strength of the drug;
 - (f) Directions for use;
 - (g) Cautionary statements, if appropriate;

(h) The lot and control number; and

(i) The expiration date of the drug.

4912.8 A physician assistant who administers, dispenses, or prescribes a prescription drug shall enter a progress note in the patient's chart on the date of the transaction and shall include the following information:

(a) Each prescription that a physician assistant orders; and

(b) The name, strength, and quantity of each drug that a physician assistant dispenses or administers.

Section 4914 is deleted in its entirety and amended to read as follows:

4914 SUPERVISION

4914.1 A physician assistant and a temporary licensed physician assistant shall be under the supervision of a physician at all times during which the physician assistant is working in his or her official capacity.

4914.2 In an inpatient setting, supervision of a physician assistant shall include, but not be limited to, continuing or intermittent physical presence of the supervising physician with constant availability through electronic communications.

4914.3 In an outpatient setting, supervision of a physician assistant shall include, but not be limited to, constant availability through electronic communications.

4914.4 It is the obligation of each team of physician(s) and physician assistant(s) to ensure that the physician assistant's scope of practice is identified; that delegation of medical tasks is appropriate to the physician assistant's level of competence; that the relationship of, and access to, the supervising physician(s) is defined; and that a process for evaluation of the physician assistant's performance is established.

4914.5 More than one physician may enter into a delegation agreement with a physician assistant. For each delegation agreement, the physician assistant and the physician whose name is listed first on the delegation agreement shall each be responsible for determining the terms and boundaries of the agreement, for updating the delegation agreement, and for overall quality assurance oversight as set forth in § 4914.4. Each physician who signs the delegation agreement is responsible for supervising the care of patients whose care the physician has delegated to the physician assistant.

- 4914.6 If a physician (due to a planned or unplanned absence) is unable personally to supervise the physician assistant consistent with the delegation agreement and this section, responsibility shall be delegated by the supervising physician to another supervising physician whose signature appears on the delegation agreement. If the supervising physician is unable to delegate supervisory responsibility to another supervising physician, the physician assistant may request another supervising physician on the delegation agreement to assume the responsibility of supervising. The supervising physician must consent to assume the responsibilities of the absent supervising physician.
- 4914.7 A supervising physician must be a physician licensed in the District and must have accepted responsibility for supervision of the physician assistant by having signed the delegation agreement.
- 4914.8 The names of supervising physician(s) shall be included in the delegation agreement.
- 4914.9 A health care facility, organization, association, institution, or group practice which employs a physician assistant shall designate one or more physicians to supervise the physician assistant. Each physician so designated has ultimate responsibility for the care and treatment of a patient attended by the physician assistant, regardless of whether the designated supervising physician actually pays the salary of the physician assistant. A delegation agreement filed with the Board under this subsection shall not only include the name and signature of each supervising physician, but shall reflect that the designation of physician(s) came from the health care facility, organization, association, institution, or group practice.
- 4914.10 A physician shall not supervise more than four (4) physician assistants at one time.

Section 4915 is deleted in its entirety and amended to read as follows:

4915 DELEGATION AGREEMENT

- 4915.1 Prior to the physician assistant beginning practice, he or she shall have a written delegation agreement using the form provided by the Board. The delegation agreement shall describe the physician assistant's role in the practice and the settings in which the supervising physician(s) delegate(s) to the physician assistant the authority to see patients.
- 4915.2 The delegation agreement form must be signed by the supervising physician(s) and physician assistant and be filed by the physician assistant with the Board and kept on file at the primary practice site.

- 4915.3 In the event that there are changes to the delegation agreement, a new agreement form must be signed by the physician and physician assistant and be filed by the physician assistant with the Board and kept on file at the primary practice site.
- 4915.4 If there are changes to the supervising physician(s), the physician assistant must file with the Board a form provided by the Board for additions and deletions to the list of supervising physicians within ten (10) days of the effective date of the change.
- 4915.5 If there is a change in the employment status of the physician assistant, or the delegation agreement is otherwise terminated, a termination form provided by the Board must be filed by the first supervising physician listed on the delegation agreement with the Board within ten (10) days of the change of employment status of the physician assistant.
- 4915.6 A delegation agreement expires automatically upon termination of the employment of a physician assistant. However, termination of employment of a physician assistant does not cause a physician assistant's license to expire.
- 4915.7 Whenever it is determined that a physician or physician assistant is practicing in a manner inconsistent with the delegation agreement, the Board may demand modification of the agreement and take disciplinary action as appropriate.
- 4915.8 The Board shall maintain the following records regarding physician assistants, which records shall be available for public inspection:
- (a) A registry of physician assistants;
 - (b) A registry of supervising physicians; and
 - (c) A copy of each delegation agreement.

Section 4916 is deleted in its entirety and amended to read as follows:

4916 SUPERVISING PHYSICIAN

- 4916.1 A physician wishing to supervise a physician assistant must
- (a) Be licensed in the District of Columbia;
 - (b) Be free from any restriction on his or her ability to supervise a physician assistant that has been imposed by Board disciplinary action; and

- (c) Maintain a written delegation agreement with the physician assistant. The agreement must state that the physician will exercise supervision over the physician assistant in accordance with any rule adopted by the Board and will retain professional and legal responsibility for the care rendered by the physician assistant. The agreement must be signed by the physician and the physician assistant and updated at the time of physician assistant licensure renewal or as needed. The agreement must be filed pursuant to § 4915.2 with the Board and a copy must be kept on file at the practice site.

- 4916.2 A physician assistant may perform health care tasks as long as the supervising physician is available by electronic communications or has designated a substitute supervising physician. A supervising physician has ultimate responsibility for the medical care and treatment given to a patient by a physician assistant to whom the supervising physician has delegated authority to perform health care tasks.
- 4916.3 A licensed physician assistant employed or extended privileges by a hospital may, if permissible under the bylaws, rules and regulations of the hospital, write medical orders, including those for controlled substances, for patients under the care of the physician responsible for his/her supervision. Countersignature by the supervising physician shall not be required prior to the execution of any orders, but shall be accomplished within thirty (30) days of the execution of the order.
- 4916.4 Physician assistants may write orders and progress notes in outpatient settings. Countersignature by the supervising physician shall not be required prior to the execution, but shall be accomplished within ten (10) days of the execution of the order and within ten (10) days of any progress note.

A new section 4917 is added to read as follows:

4917 DUTIES OF ADVISORY COMMITTEE ON PHYSICIAN ASSISTANTS

- 4917.1 The Committee shall advise the Board on all matters pertaining to this chapter.
- 4917.2 The Committee shall review all applications for a license to practice as a physician assistant and make recommendations to the Board.
- 4917.3 The Committee shall review all delegation agreements and make recommendations to the Board regarding their content when warranted.

- 4917.4 The Committee shall review complaints regarding physician assistants referred by the Board and make recommendations to the Board regarding what action should be taken.

A new section 4918 is added to read as follows:

4918 TITLE PROTECTION

- 4918.1 Any person not licensed as a physician assistant by the Board shall be subject to penalties applicable to the unlicensed practice of a health occupation, if he or she:
- (a) Represents himself or herself as a physician assistant with the intent to represent that he or she practices as a physician assistant; or
 - (b) Uses any combination or abbreviation of the term physician assistant, or "P.A.", or any similar title or description of services with the intent to represent that he or she practices as a physician assistant; or
 - (c) Acts as a physician assistant without being licensed by the Board. An unlicensed physician shall not be permitted to use the title of physician assistant or to practice as a physician assistant unless he or she fulfills the requirements of this chapter.

Section 4999 is deleted in its entirety and amended to read as follows:

4999 DEFINITIONS

- 4999.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Act – the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*

Administer – to give a prescription drug by injection, inhalation, ingestion, or other means of direct application to the body of a patient.

Board – as delegated to do so by a supervising physician the Board of Medicine, established by § 203(a) of the Act, D.C. Official Code § 3-1202.03(a) (2001).

Committee – the Advisory Committee on Physician Assistants, established by § 203(d) of the Act, D.C. Official Code § 3-1202.03(d) (2001).

Controlled substance – a drug defined as a controlled substance in one of the following acts or rules promulgated pursuant thereto:

- (a) The Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. § 801 *et seq.*; or
- (b) The District of Columbia Uniform Controlled Substances Act of 1981, D.C. Official Code § 48-901.01 *et seq.* (2001).

Delegation agreement – a written agreement describing the manner and extent to which the physician assistant will practice and be supervised, including identification of each supervising physician who will supervise the physician assistant and other such information as the Board may require.

Dispense – to distribute a prescription drug to a patient or the patient's agent, including the prescribing, packaging, labeling, and compounding necessary to prepare the prescription drug for distribution.

Legend drug – a drug with the phrase "Caution: Federal law prohibits dispensing without a prescription" stated on its label.

Physician – a person licensed to practice medicine under the Act, including an osteopath.

Physician assistant – a person licensed to practice as a physician assistant under the Act.

Prescription drug – one of the following drugs:

- (a) A drug which under federal law is required, prior to being dispensed or delivered, to be labeled in substance with either of the following statements:
 - (1) "Caution: Federal law prohibits dispensing without prescription"; or
 - (2) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian";
- (b) A drug that is required by any applicable federal or District law or regulation to be dispensed by prescription only; or
- (c) A drug that is restricted to use by health and allied practitioners for research.

Supervising physician – a physician who supervises a physician assistant under the terms of a written delegation agreement registered by the Board.

4999.2

The definitions in the Act and in § 4099 of this title are incorporated by reference into and are applicable to this chapter.